

REMARKS

Claims 1-12, 14-18, 33-46, 48, and 50-53 are pending in the application. Claim 1 is amended. No new matter is presented. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

REJECTION UNDER 35 U.S.C. § 102

Claims 1, 2, 4-6, 8, 9, 11-16, 33-36, 38-40, 42-43, 45-46, and 48 stand rejected under 35 U.S.C. §102(b) as being anticipated by Smith et. al. (U.S. Patent No. 5,092,893). This rejection is respectfully traversed.

Claim 1 is amended to more clearly recite the features of the claimed invention. Specifically, claim 1 is amended to recite the feature of wherein the artificial left and right facet joint structures comprise a cup portion that is configured to articulate with another spinal prosthesis assembly or with portion of the natural articular process of an adjoining pedicle in a plurality of orientations. It is respectfully submitted that Smith fails to teach or suggest this feature. There is nothing in the disclosure of Smith that teaches artificial left and right facet joint structures each being configured to articulate with another spinal prosthesis assembly or with a natural articular process of an adjoining pedicle. Also, Smith does not teach or suggest facet joint structure having a cup portion that is configured to articulate with a portion of the natural facet or another spinal prosthesis assembly in a plurality of orientations. Smith only discloses a vertebra structural implant for rigidly connecting vertebral bodies in axial and lateral directions in the spinal column. See col. 2, lines 5-12. The components of the Smith implant are implant plates 13, 14, threaded studs 15, locking washers 30, lock nuts 35, and a cross brace 40. See col. 3, line 15- col.4, line 16. These components are installed to rigidly stabilize vertebral bodies in

axial and lateral directions in the spinal column. Specifically, these components are designed to create a fixed, rigid construct to support the bones until the bones can fuse and/or otherwise heal. This is unlike the invention of claim 1 which includes artificial left and right facet joint structures each being configured to articulate with another spinal prosthesis assembly or with a natural articular process of an adjoining pedicle. Thus, the invention of claim 1 is designed to allow articulation after installation.

It is submitted that Smith does not teach or suggest all the features recited in amended claim 1, therefore, Applicants respectfully request the Examiner to reconsider and withdraw the rejection of claim 1. Since claims 2, 4-6, 8, 9, 11-16, 33-36, 38-40, 42-43, 45-46, and 48 depend from claim 1, for the same reasons applicable to claim 1, Applicants respectfully request the Examiner to reconsider and withdraw the rejection of claims 2, 4-6, 8, 9, 11-16, 33-36, 38-40, 42-43, 45-46, and 48.

REJECTION UNDER 35 U.S.C. § 103

Claims 3, 7, 10, 17, 18, 37, 41, 44, and 48 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Smith. This rejection is respectfully traversed.

For the reasons mentioned above with respect to claim 1, it is submitted that claims 3, 7, 10, 17, 18, 37, 41, 44, and 48, which depends from claim 1, also recites patentable subject matter.

In view of the above remarks, Applicants respectfully request the Examiner to reconsider and withdraw the rejection of claims 3, 7, 10, 17, 18, 37, 41, 44, and 48.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned attorney at (610) 930-1800 x1174.

No additional fees are believed due for this submission, however, if any additional fees are required; please charge such fees to GMEDELAWARE 2 LLC Deposit Account No. 50-4131.

Respectfully submitted,

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